

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated November 18, 2004, indicated that the Specification is objected to for informalities and claims 1-7 are rejected under 35 U.S.C. § 102(e) over Jenkins *et al.* (U.S. Patent No. 6,681,107).

Regarding the objection to the Specification in connection with 37 C.F.R. § 1.77(b), Applicant appreciates the Office Action's suggestion to add section headings to the Specification but respectfully declines the invitation. As noted in the Office Action and also in MPEP § 608.01(a) the suggested section headings are merely preferred and not required. To maintain consistency with the parent application, section headings have not been added.

Applicant has amended the Abstract for non-statutory reasons; the subsequent paragraph in the Abstract and figure label numbers have been removed.

Applicant respectfully requests that the Examiner initial the references disclosed on the Form 1449 that was submitted as part of an Information Disclosure Statement on June 7, 2001.

Applicant respectfully traverses the Section 102(e) rejection because the Office Action is unclear as to how the '107 reference is being applied to the instant claims. For example, Applicant fails to recognize what teachings in the '107 reference the Office Action asserts as corresponding to limitations directed to a beacon device broadcasting a series of messages and the beacon adding to each such message prior to transmission an additional data field, as claimed. While it would appear that a *prima facie* Section 102 rejection has not been presented, this is believed to be moot as the '107 reference is not "prior art" with respect to the instant application.

The '107 reference does not predate the instant application on its face, or through any claim of priority. The cited '107 reference was filed on July 16, 2002, over a year after the filing date of the instant application, June 7, 2001. The Office Action does not indicate that the underlying '793 reference is relied upon as support for the rejection, as is logical since there is no evidence that the relied upon subject matter in the '107 reference can claim priority to the '793 filing date. Moreover, the instant application claims priority to a Great

Britain application (application number 0015453.4) filed on June 26, 2000, via the Paris Convention and 35 U.S.C. § 119. *See also* MPEP § 210.13. This priority application filing date predates any published filing date claimed by the '107 reference thereby preventing the '107 reference from qualifying as "prior art" with respect to the instant application.

Accordingly, Applicant submits that the rejection in view of the '107 reference is improper and requests that it be withdrawn.

Applicant also traverses the characterization of the art made of record but not relied upon at page 4 of the Office Action. However, because this art was not used in connection with the rejection, Applicant submits that any such mischaracterization is moot and would require no further discussion.

In view of the remarks above, Applicant believes that the rejection has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Mr. Peter Zawilski, of Philips Corporation at (408) 474-9063.

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